

SOURCE: IC 24-4.5-7-102; (07)EH1557.2.20. --> SECTION 20. IC 24-4.5-7-102, AS AMENDED BY P.L.57-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 102. (1) Except as otherwise provided, all provisions of this article applying to consumer loans apply to small loans, as defined in this chapter.

(2) This chapter applies to:

(a) a lender or to any person who facilitates, enables, or acts as a conduit for any person who is or may be exempt from licensing under IC 24-4.5-3-502;

(b) a bank, savings association, credit union, or other state or federally regulated financial institution except those that are specifically exempt regarding limitations on interest rates and fees; or

(c) a person, if the department determines that a transaction is:

(i) in substance a disguised loan; or

(ii) the application of subterfuge for the purpose of avoiding this chapter.

(3) A loan that:

(a) does not qualify as a small loan under IC 24-4.5-7-104;

(b) is for a term shorter than that specified in IC 24-4.5-7-401(1); or

(c) is made in violation of IC 24-4.5-7-402;

is subject to this article. The department may conform the finance charge for a loan described in this subsection to the limitations set forth in IC 24-4.5-3-508.

SOURCE: IC 24-4.5-7-104; (07)EH1557.2.21. -->

SOURCE: IC 24-4.5-7-104. --> SECTION 21. IC 24-4.5-7-104 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 104. (1) .Small loan. means a loan:

(a) with a principal loan amount that is at least fifty dollars (\$50) and not more than five hundred ~~fifty~~ dollars (~~\$500~~); (\$550); and

(b) in which the lender holds the borrower's check or receives the borrower's written authorization to debit the borrower's account under an agreement, either express or implied, for a specific period before the lender:

(i) offers the check for deposit or presentment; or

(ii) exercises the authorization to debit the borrower's account.

(2) The amount of five hundred fifty dollars (\$550) in subsection (1)(a) is subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 2006.

SOURCE: IC 24-4.5-7-201; (07)EH1557.2.22. --> SECTION 22. IC 24-4.5-7-201, AS AMENDED BY P.L.141-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 201. (1) Finance charges on the first two hundred fifty dollars (\$250) of a small loan are limited to fifteen percent (15%) of the principal.

(2) Finance charges on the amount of a small loan greater than two hundred fifty dollars (\$250) and less than or equal to four hundred dollars (\$400) are limited to thirteen percent (13%) of the amount over two hundred fifty dollars (\$250) and less than or equal to four hundred dollars (\$400).

(3) Finance charges on the amount of the small loan greater than four hundred dollars (\$400) and less than or equal to five hundred ~~fifty~~ dollars (~~\$500~~) (**\$550**) are limited to ten percent (10%) of the amount over four hundred dollars (\$400) and less than or equal to five hundred ~~fifty~~ dollars (~~\$500~~). (**\$550**).

(4) The amount of five hundred fifty dollars (\$550) in subsection (3) is subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 2006.

SOURCE: IC 24-4.5-7-202; (07)EH1557.2.23. --> SECTION 23. IC 24-4.5-7-202 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 202. (1) Notwithstanding any other law, the only fee that may be contracted for and received by the lender on a small loan is a charge, not to exceed ~~twenty~~ **twenty-five** dollars (~~\$20~~), (**\$25**), for each:

- (a) return by a bank or other depository institution of a:
 - (i) dishonored check;
 - (ii) negotiable order of withdrawal; or
 - (iii) share draft issued by the borrower; or
- (b) time an authorization to debit the borrower's account is dishonored.

This additional charge may be assessed one (1) time regardless of how many times a check or an authorization to debit the borrower's account may be submitted by the lender and dishonored.

(2) A lender may:

- (a) present a borrower's check for payment; or**
 - (b) exercise a borrower's authorization to debit the borrower's account;**
- not more than three (3) times.**

SOURCE: IC 24-4.5-7-401; (07)EH1557.2.24. --> SECTION 24. IC 24-4.5-7-401, AS AMENDED BY P.L.57-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 401. (1) A small loan may not be made for a term of less than fourteen (14) days.

(2) After the borrower's fifth If five (5) consecutive small loan, loans have been made to a borrower after the borrower's initial small loan, another small loan may not be made to that borrower within seven (7) days after the fifth consecutive small loan is paid in full. After the borrower's fifth consecutive small loan, the balance must be paid in full. However, the borrower and lender may agree to enter into a simple interest loan, payable in installments, under IC 24-4.5-3 within seven (7) days after the due date of the fifth consecutive small loan.

(3) Subject to subsection (4), whenever a borrower has entered into an initial small loan followed by three (3) consecutive small loans, the lender shall offer the borrower the option to repay:

- (a) the third consecutive small loan; and**
- (b) subject to subsection (2), any small loan entered into after**

the third consecutive small loan;

under an extended payment plan. At the time of execution of a small loan described in subdivision (a) or (b), the lender shall disclose to the borrower the extended payment plan option by providing the borrower a written description of the extended payment plan option in a separate disclosure document approved by the director.

(4) A lender shall offer an extended payment plan under subsection (3) under the following terms and conditions:

- (a) A borrower shall be permitted to request an extended payment plan at any time during the term of a third or subsequent consecutive small loan if the borrower has not defaulted**

on the outstanding small loan.

(b) An extended payment plan must allow the outstanding small loan to be paid in at least four (4) equal installments over a period of not less than sixty (60) days.

(c) The lender may not assess any fee or charge on a borrower for entering into an extended payment plan.

(d) An agreement for an extended payment plan must be in writing and acknowledged by both the borrower and the lender.

(e) A borrower may not enter into another small loan transaction while engaged in an extended payment plan.

(5) An agreement for an extended payment plan under subsection (3):

(a) shall be considered an extension of the outstanding small loan; and

(b) may not be considered a new loan.

SOURCE: IC 24-4.5-7-402; (07)EH1557.2.25. --> SECTION 25. IC 24-4.5-7-402 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 402. (1) A lender is prohibited from making a small loan to a borrower if the total of:

(a) the payable principal amount and finance charges of the small loan to be issued; plus

(b) any other small loan balances that the borrower has outstanding with any lender;

exceeds fifteen ~~twenty~~ percent (~~15%~~) (**20%**) of the borrower's monthly gross income.

(2) A small loan may be secured by only one (1) check or authorization to debit the borrower's account per small loan. The check or electronic debit may not exceed the amount advanced to or on behalf of the borrower plus loan finance charges contracted for and permitted.

(3) A borrower may make partial payments in any amount on the

small loan without charge at any time before the due date of the small loan. After each payment is made on a small loan, whether the payment is in part or in full, the lender shall give a signed and dated receipt to the borrower making a payment showing the amount paid and the balance due on the small loan.

(4) The lender shall provide to each borrower a copy of the required loan documents before the disbursement of the loan proceeds.

(5) A borrower may rescind a small loan without cost not later than the end of the business day immediately following the day on which the small loan was made. To rescind a small loan, a borrower must:

(a) inform the lender that the borrower wants to rescind the small loan; and

(b) return the cash amount of the principal of the small loan to the lender.

(6) A lender shall not enter into a renewal with a borrower. If a loan is paid in full, a subsequent loan is not a renewal.

SOURCE: IC 24-4.5-7-404; (07)EH1557.2.26. --> SECTION 26. IC 24-4.5-7-404, AS AMENDED BY P.L.57-2006, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 404. (1) As used in this section, .commercially reasonable method of verification. means one (1) or more private consumer credit reporting services that the department determines to be capable of providing a lender with adequate verification information necessary to ensure compliance with subsection (4).

(2) With respect to a small loan, no lender may permit a person to become obligated under more than one (1) loan agreement with the lender at any time.

(3) A lender shall not make a small loan that, when combined with **the outstanding balance on** another outstanding small loan owed to another lender, exceeds a total of five hundred **fifty**

dollars (\$500), ~~when the face amounts of the checks written or debits authorized in connection with each loan are combined into a single sum.~~ **(\$550), excluding finance charges.** A lender shall not make a small loan to a borrower who has two (2) or more small loans outstanding, regardless of the total value of the small loans. **The amount of five hundred fifty dollars (\$550) in this subsection is subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 2006.**

(4) A lender complies with subsection (3) if the borrower represents in writing that the borrower does not have any outstanding small loans with the lender, another lender, an affiliate of the lender or another

lender, or a separate entity involved in a business association with the lender or another lender in making small loans, and the lender independently verifies the accuracy of the borrower's written representation through a commercially reasonable method of verification. A lender's method of verifying whether a borrower has any outstanding small loans will be considered commercially reasonable if the method includes a manual investigation or an electronic query of:

(a) the lender's own records, including both records maintained at the location where the borrower is applying for the transaction and records maintained at other locations within the state that are owned and operated by the lender; and

(b) available third party databases **provided by private consumer reporting services.**

(5) The department shall monitor the effectiveness of private consumer credit reporting services in providing the verification information required under subsection (4). If the department determines that one (1) or more commercially reasonable methods of verification are available, the department shall:

(a) provide reasonable notice to all lenders identifying the commercially reasonable methods of verification that are available; and

(b) require each lender to use, consistent with the policies of the department, one (1) of the identified commercially reasonable methods of verification as a means of complying with subsection (4).

(6) If a borrower presents evidence to a lender that a loan has been discharged in bankruptcy, the lender shall cause the record of the borrower's loan to be updated in the database described in subsection (4)(b) to reflect the bankruptcy discharge.

(7) A lender shall cause the record of a borrower's loan to be updated in the database described in subsection (4)(b) to reflect:

(a) presentment of the borrower's check for payment; or

(b) exercise of the borrower's authorization to debit the borrower's account.

If a check is returned or an authorization is dishonored because of insufficient funds in the borrower's account, the lender shall reenter the record of the loan in the database.

(8) A lender shall update information in a database described in subsection (4)(b) to reflect partial payments made on an outstanding loan, the record of which is maintained in the database.

(9) If a lender ceases doing business in Indiana, the director may

require one (1) or more operators of databases described in subsection (4)(b) to remove records of the lender's loans from the operator's database.

(10) The director may impose a civil penalty not to exceed one hundred dollars (\$100) for each violation of:

(a) this section; or

(b) any rule or policy adopted by the director to implement this section.

~~(6)~~ **(11)** The excess amount of loan finance charge provided for in agreements in violation of this section is an excess charge for purposes of the provisions concerning effect of violations on rights of parties (IC 24-4.5-5-202) and the provisions concerning civil actions by the department (IC 24-4.5-6-113).